

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-30 are presently active in this case. The present Amendment amends Claims 1 and 16 without introducing any new matter or raising new issues.

In the outstanding Office Action, Claims 16-17 and 19-21 were rejected under 35 U.S.C. §102(b) as anticipated by Hirai et al. (U.S. Patent No. 6,703,676, herein "Hirai"). Claims 22-30 were rejected under 35 U.S.C. §103(a) as unpatentable over Hirai in view of Noda et al. (U.S. Patent No. 6,731,538, herein "Noda"). Claims 1-15 were allowed and Claim 18 was indicated as allowable if rewritten in independent form.

Applicants acknowledge with appreciation the indication of allowable subject matter. In response and to clarify Applicants' invention, independent Claim 16 is amended to recite "a bottom surface of the conductive layer is in contact with the at least two of the second diffusion layers and an upper surface of the element isolation insulating layer"¹ and to recite "an element isolation insulating layer."² A similar feature is already recited in independent Claim 1. Therefore, Applicants believe that the changes to Claim 16 do not raise any new issues and that all the features newly introduced into Claim 16 were already considered by the Examiner. Furthermore, Claim 1 is amended to correct minor formalities and for clarification purposes, and since the amendments to Claim 1 does not cancel any of the allowable features of Claim 1, Applicants respectfully submit that also the amendments to Claim 1 do not raise new issues that were not previously considered by the Examiner.

In view of the amendments to independent Claim 16, Applicants respectfully traverse the rejection of Claims 16-17 and 19-21 under 35 U.S.C. §102(b), as next discussed.

¹ Finds non-limiting support in the disclosure as originally filed, for example from page 8, line 11, to page 9, line 4.

² Idem at page 6, lines 1-5, and in Figure 2.

Applicants believe that Hirai fails to teach or suggest all the features of independent Claim 16. In particular, Hirai fails to disclose that a bottom surface of the conductive layer is in contact with the at least two of the second diffusion layers **and** an upper surface of the element isolation insulating layer, as recited in amended independent Claim 16. Hirai shows in Figures 18A-18B two transistors, each of which have a gate electrode 4, a gate insulation film 3, a source region 5 and a drain region, arranged on a semiconductor substrate 1. Further, Figure 18B shows three metal plugs 9 which are formed by filling the contact holes 8.³ The three plugs 9 are connected together by a first metal wiring 10, constituting a conductive layer. However, and as shown in Hirai's Figures 17B and 18B, Hirai's metal plugs 9 and metal wiring 10 **are not in contact** with the element isolation regions 2 or the gate insulation films 3. As further shown in Hirai's Figures 4A and 4B, element isolation regions 2 are arranged to isolate a pair of transistors including the elements 3, 4, 5 and 6, and the element isolation regions are arranged between the diffusion layers 5 and 6.

In response to the rejection of Claims 22-30 under 35 U.S.C. §103(a), Applicants believe that this rejection is overcome, since the reference Noda does not remedy the deficiencies of Hirai. Noda's invention is concerned about page latch for nonvolatile semiconductor memory devices, and is entirely silent on structural features of the semiconductor memory. Therefore, even if the combination of Hirai and Noda is assumed to be proper, the combination fails to teach every element of the claimed invention. Specifically, the combination fails to teach the claimed bottom surface of the conductive layer being in contact with the at least two of the second diffusion layers and an upper surface of the element isolation insulating layer. Accordingly, Applicants respectfully traverse, and request reconsideration of, this rejection based on these patents.⁴

³ See Hirai at column 7, lines 62-67 and in Figures 3B, 4B and 18B.

⁴ See MPEP 2142 stating, as one of the three "basic criteria [that] must be met" in order to establish a *prima facie* case of obviousness, that "the prior art reference (or references when combined) must teach or suggest all the claim limitations," (emphasis added). See also MPEP 2143.03: "All words in a claim must be considered in

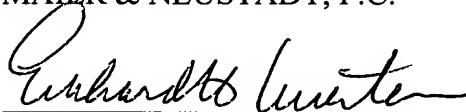
The present amendment is submitted in accordance with the provisions of 37 C.F.R. §1.116, which after Final Rejection permits entry of amendments placing the claims in better form for consideration on appeal. As the present amendment is believed to overcome outstanding rejections under 35 U.S.C. §§102(b) and 103(a), the present amendment places the application in better form for consideration on appeal. In addition, the present amendment is not believed to raise new issues because the changes to Claim 16 merely recite similar features previously introduced into Claim 1, and the changes to Claim 1 are merely for clarification purposes. It is therefore respectfully requested that 37 C.F.R. §1.116 be liberally construed, and that the present amendment be entered.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-30 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

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judging the patentability of that claim against the prior art."